

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
June 10, 2014

Legend

Taxpayer =

County Code =

Ordinance =

Plan A =

Plan B =

Plan C =

Plan D =

Dear :

This is in reply to a letter dated January 10, 2014, requesting rulings on behalf of Taxpayer, concerning the federal income tax treatment under sections 104(a)(1) and 3121(a)(2)(A) of the Internal Revenue Code (Code) of certain payments provided to current and former employees of Taxpayer pursuant to County Code, as amended by Ordinance.

Ordinance adopts certain changes to employee benefit arrangements under County Code. County Code sets forth the disability benefits for eligible employees of Taxpayer

who suffer personal injury or sickness in the line of duty. According to County Code, these disability benefits are paid under the terms of Plan A, Plan B, Plan C or Plan D and determined as a percentage of an eligible employee's compensation before the employee suffered personal injury or sickness in the line of duty. Line of duty is defined to mean a disability or death resulting directly or indirectly, from an act occurring or a thing done or a risk taken, which was required of the employee in the performance of his or her duty. County Code further requires disability benefits to be reduced by the amount of social security disability benefits, workers compensation benefits, and earned income during disability.

Section 104(a)(1) of the Code excludes from gross income amounts that are received by an employee under a workmen's compensation act or under a statute in the nature of a workmen's compensation act that provides compensation to employees for personal injuries or sickness incurred in the course of employment. Section 1.104-1(b) of the Income Tax Regulations provides that the exclusion from income of amounts described in section 104(a)(1) also applies to compensation which is paid under a workmen's compensation act to the survivor or survivors of a deceased employee. This exclusion, however, is not available and does not apply to a retirement pension or annuity to the extent that it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by an occupational injury or sickness.

In Rev. Rul. 80-44, 1980-1 C.B. 34, a statute in the nature of a workmen's compensation act provided for an allowance of the greater of (A) 60% of the individual's average final compensation, or (B) the amount to which the individual would be entitled under the normal, years of service, retirement plan. The ruling concluded that the benefits under the statute were excludable under section 104(a)(1) of the Code to the extent that they did not exceed 60% of the final average compensation. Any excess over 60% of final average compensation was attributable to length of service, and therefore, not excludable from gross income.

Section 3121(a)(2)(A) of the Code excludes from the definition of "wages" for purposes of the Federal Insurance Contributions Act ("FICA"), any payment made to or on behalf of an employee on account of sickness or accident disability, if received under a worker's compensation law.

Accordingly, based on the information submitted and representations made, and authorities cited above, we conclude as follows:

- (1) County Code, as amended by Ordinance, is a statute in the nature of a workmen's compensation act.

- (2) Disability benefits paid pursuant to County Code, as amended by Ordinance, and in accordance with the terms of Plan A, Plan B, Plan C or Plan D are not considered taxable income to the employee under section 104(a)(1) of the Code.
- (3) Disability benefits paid pursuant to County Code, as amended by Ordinance, and in accordance with the terms of Plan A, Plan B, Plan C or Plan D are excluded from the definition of “wages” under section 3121(a)(2)(A) of the Code.

No opinion is expressed or implied concerning the federal tax consequences under any other provision of the Code or regulations other than those specifically stated above.

These rulings are directed only to the Taxpayer who requested them. Section 6110(k) of the Code provides that they may not be used or cited as precedent.

Sincerely,

Harry Beker
Chief, Health & Welfare Branch
Office of Division Counsel/Associate Chief
Counsel
(Tax Exempt and Government Entities)